Management Analysis Of The Implementation Of The Utmost Good Faith Principle In Insurance Agreements

Hanna Yulita[1*], Erlina Puspitaloka Mahadewi[2]

[1,2] Master of Public Health, Faculty of Public Health, Universitas Respati Indonesia
[3]Economic and Business Faculty, Universitas Esa Unggul, Jakarta Indonesia
*Corresponding Author:
Email: hannaangel92@gmail.com

Abstract.

This study analyzes insurance with an agreement between two parties, namely an insurance company called the insurer and a policyholder called the customer, where the insurance company promises to provide financial protection against risks such as accidents, illness, death and others while the customer makes premium payments periodically or all at once. One of the important principles in making an insurance agreement is Utmost Good Faith (Good Faith). In Indonesia, there are several examples of cases of violations of the principle of utmost good faith such as not disclosing previous illnesses, misuse of Health Insurance benefits, not providing clear information regarding the risks and benefits of insurance such as unit links. Therefore, insurance companies are challenged to be able to obtain honest information from customers and must convince customers, to provide information and claim reimbursement in accordance with the agreement made in the policy, both methodically and materially. This study uses a qualitative method. The source used is Google Scholar using search keywords are the principle of utmost good faith and insurance agreement. Research results: this study wants to know the implementation of the principle of utmost good faith in Insurance, problems, how to overcome and solutions in the future to benefit the Insurance business in Indonesia.

Keywords: *Agreement; heathcare insurance; insuranc; risk and utmost good faith principle.*

I. INTRODUCTION

Human life is shrouded in uncertainty, from birth to illness to death. This uncertainty is referred to as risk. Risk is the obligation to bear or incur losses due to an event beyond one's fault, affecting the object of a contract[1]. Risks are categorized based on their consequences, including fundamental risks and special risks. Fundamental risks typically affect communities or groups of people and cannot be monitored or detected by individuals[2]. Fundamental risks are generally caused by natural disasters or widespread economic situations, such as earthquakes that damage buildings and injure residents, resulting in injuries or even death[3]. Special risks, on the other hand, are risks resulting from a person's decisions or actions. For example, a careless person might cut a finger while chopping wood due to fatigue and lack of focus[4].There are several ways to manage risk: avoiding the risk, taking or increasing the risk as an opportunity, eliminating the source of the risk, altering the likelihood or impact, sharing the risk (e.g., through contracts or insurance), and retaining the risk[5]. Considering the various ways to manage risk mentioned above, one approach is to share the risk by seeking insurance[6].

Verzekering is called insurance in Dutch, while in English it is called assurance or insurance. The principles of insurance consist of: Insurable Interest (Insurable Interest) means that we must have an interest in insurable property where the interest and object must be legal and equitable (not against the law and appropriate), Utmost Good where this principle states that the insured is obliged to provide clear and thorough information regarding all important facts related to the insured object, Idemnity (Idemnity compensation) where this principle states that the insured's position is returned to the position immediately before the loss covered by the policy occurred[7]. Subrogation where this principle is the transfer of rights (subrogation) from the insured to the insurer if the insurer has paid compensation to the insured, Contribution is this about principle applies when the insured insures the insurance object to more than one company and Proximate Cause. Regulations regarding insurance contracts in Indonesia are contained in Indonesia Article 1338 of the Civil Code and Article 251 of the Commercial Code, which state that insurance contracts must be based on good faith from all parties. This means that insurance contracts require the disclosure of truthful, honest, and complete information. One of the reasons for violating the principle of utmost good faith is:

Internal Factors

For example, an insurance marketer violates the principle of utmost good faith. This is done solely because they are focused on sales targets to obtain commissions, resulting in the marketer failing to explain the insurance product offered honestly, completely, and clearly to potential insured persons[8].

External Factors

There are four factors underlying the insured's violation of the principle of utmost good faith, namely:

1. Non-disclosure. When explaining the contents of the policy to the policyholder, the insurance company does not disclose all information or facts to the policyholder, assuming that the facts are unimportant.
2. Concealment. In this case, the insurance company intentionally fails to disclose or inform the policyholder of a fact to conceal the information.
3. Misrepresentation. Misrepresentation can be divided into two categories: innocent misrepresentation and fraudulent misrepresentation. Innocent misrepresentation is the misrepresentation of information due to incorrect information being provided or the content or material being incorrect[9]. Fraudulent misrepresentation, on the other hand, is the provision of false information for the purpose of deception. This provision of information for the purpose of deception can occur at the time of insurance coverage and when submitting an insurance claim.
4. Moral Hazard. Fraud on the part of the policyholder occurs when the policyholder, as the insured, is dishonest in filling out the information in the insurance policy[10]. In closing, the phenomenon of adverse selection in health insurance is a significant challenge that needs to be addressed proactively and systematically. With a combination of measures to improve health literacy, adjust regulatory models, and utilize technology in data analysis[11], it is possible to create a more inclusive and efficient health insurance system that can serve the entire community fairly and sustainably[12].

II. METHODS

This study uses a systematic literature review approach to examine the issue of adverse selection in health insurance schemes. This approach was chosen to gain a comprehensive understanding of the patterns, causal factors, and impacts of adverse selection reported in various cross-country studies and insurance schemes, both public, private, and community-based[13].The literature search was conducted in May 2025 using scientific databases such as Google Scholar, PubMed, ScienceDirect, and SpringerLink. Inclusion criteria included peer-reviewed articles in English, published between years 2015 to 2025, with an empirical focus that discuss in health insurance and agreement for utmost good faith. Editorial articles, opinion articles, and non-peer-reviewed studies were excluded[14].

In addition, studies outside the context of health insurance, such as vehicle or property insurance, were also excluded. The article selection process consisted of three stages: (1) title and abstract selection, (2) full-text review to ensure compliance with the inclusion criteria, and (3) data verification, then from the initial search results of >50 articles, 30 final articles that met the criteria were selected. Two researchers conducted the screening process independently to minimize bias. If there were differences in assessment regarding article inclusion, the two researchers discussed to reach a consensus. If the discussion did not result in an agreement, a third researcher was asked to review and decided.Risk of bias assessment was performed independently by two investigators, with the same procedure for resolving discrepancies as in the selection stage. Quality scores were used for sensitivity analyses and to interpret the overall strength of evidence[13].

III. RESULT AND DISCUSSION

The Principle of Utmost Good Faith as a principle of Insurance Law can be break as the principle of utmost good faith is also known as the principle of perfect good faith or the principle of perfect honesty (uberrimae fidei). This principle states that the insured is obliged to inform the insurer of any facts and matters known to him, as well as matters relating to the risks to which the insurance is subject. Misrepresentation or omission of information can result in the cancellation of the insurance contract.This

principle in terms of warranties, representations, and concealment, however, these principles are essentially encompassed in the principle of perfect good faith. This principle of honesty is fundamental to every contract and must be fulfilled by the contracting parties[15]. Failure to fulfill this principle at the time of closing a contract. A breach of contract will result in a defect in will, as stipulated in all the basic provisions stipulated in Articles 1320-1329 of the Civil Code. However, good faith is the primary foundation and trust underlying every agreement, and the law does not inherently protect parties acting in bad faith[16]. Although good faith is generally regulated by the provisions of the Civil Code specifically for insurance contracts, emphasis is still needed on good faith, as required by Article 251 of the Commercial Code: any false or incorrect information, or any failure to provide information known to the insured, regardless of their good faith, of such a nature that if the insurer had known the true circumstances, the agreement would not have been concluded or would not have been concluded under the same conditions, will result in the cancellation of the insurance[17].

In practice, information or statements from prospective insured parties can be provided verbally or in writing. Written information is provided by filling out an application form prepared by the insurer. The application (similar to a blank application form for becoming an insurance company customer) contains the information required for the declaration section of a policy. The application can be detailed or not, depending on the type of insurance[18].The completed form is then signed by the prospective insured as the applicant. The application can be detailed or not, and the type of insurance is also greatly influenced by the need for important information that the insurer needs to know. Insurance contracts should be concluded in good faith. Therefore, both parties are prohibited from concealing the main facts of the risk they know. When submitting the application, he failed to disclose the fire, thus concealing the underlying facts of the risk. For example, in a life insurance agreement, an insured person might be dishonest about whether someone smokes or not[19].This disclosure includes, among other things, informing the other party of what is true, what is entirely true, and only what is true regarding the contents of the agreement. Therefore, in fairness, the obligation to provide information and statements as a complete reflection of the good must be fulfilled by both parties. Both the insurer/insurance company and the insured/insurance taker have equal and balanced obligations. Therefore, in this case, every prospective insured, before concluding an insurance agreement, has an obligation to disclose to the prospective insurer all facts they know or should know so that the prospective insurer can decide whether to conclude the insurance agreement or no[20]t.This also includes whether the prospective insurer will conclude under the same terms.

This obligation to disclose primarily concerns facts already known to the prospective insurer or facts that should be known to the prospective insurer. It's possible that some of these risks have predictable causes. Therefore, proper preparation is needed to prevent their occurrence. However, some risks have unpredictable causes, appearing suddenly. The consequences of these events can result in losses, both material and immaterial, such as the loss of a loved one or the family's breadwinner, or the loss of property. These losses often create new problems for the affected party[21]. The question is, who is responsible for bearing these risks, in the event of an incident affecting the transaction object or harming someone's property, life, or body? In this case, it's not difficult to determine which party bears the risk: the owner of the goods or their heirs. Considering the existence of these risks in various business contracts, insurance clauses are generally included. Are these risks avoided or managed in such a way that potential losses are minimized as much as possible? It is important to first understand the meaning of risk itself[22]. Risk arises from several factors, including: (1) Unintentional risk (pure risk), which is a risk that, if it occurs, will certainly cause a loss and occurs unintentionally, such as fire or natural disasters. (2) Intentional risk (speculative risk), which is a risk deliberately created by the person involved to provide them with a benefit from the uncertainty, such as debts. (3) Fundamental risk, which is a risk whose cause cannot be assigned to one person and which is suffered not by one or a few people, but by many, such as floods. (4) Specific risk, which is a risk that stems from an independent event and the cause is generally easy to determine, such as a shipwreck[23].Efforts that humans can take to avoid these risks include: avoidance, moving away, or staying away from (avoidance) is a way of dealing with risk. Someone who moves away from or avoids a job or an object that carries a risk is trying to avoid the risk itself.

Another approach is to prevent such risks and transfer them to an insurance company. The normative terminology of insurance can be found in Article 1774 of the Civil Code (KUHPdt), which states: "A wagering agreement is an act whose outcome, namely profit or loss, for all parties or for some parties, depends on an uncertain event. This includes insurance agreements; life insurance; gambling and betting. The first agreement is regulated in the Commercial Code."[24]Insurance is an agreement that must fulfill the elements of an agreement. These elements are: essentialia elements, which are conditions that cannot be ignored in the agreement; naturalia elements, which are parts of the agreement regulated by law but can be replaced by the parties. Therefore, these parts are regulated by law, which regulates or adds to the agreement; if they are absent, the agreement is invalid; and accidentalia elements, or supplementary elements, are parts of the agreement added by the parties, while the law itself does not regulate this matter[25].Insurance can be divided into two categories: life insurance and general insurance. Life insurance itself provides protection in the form of old-age security, death insurance, and personal accident insurance. It also provides social protection, aiming to provide compensation to those who suffer from a disaster. This compensation is derived from contributions collected from all parties participating in the social plan. Life insurance can provide economic protection for people seeking satisfaction in order to fulfill their well-being needs. Life insurance also provides financial protection, where the insurance company collects funds from policyholders in the form of premiums. Some of the collected funds are used as claims funds, and the rest is invested. Life insurance itself consists of various types, one of which is unit-linked life insurance[26].

Unit-linked life insurance utilizes the concept of "transfer risk," which is protection in the form of transferring the economic risk of the death or life of the insured to the insurance company as the risk bearer. In other words, by purchasing or joining conventional insurance, the economic risk is covered by the insurance company based on the premium payments made[27]. Unit-linked life insurance is a highly sought-after life insurance product among insurance customers because it offers both life protection and investment benefits. However, in practice, unit-linked life insurance products often encounter problems, namely, the parties involved in these unit-linked insurance products do not apply the principle of utmost good faith in insurance[28]. The principle of utmost good faith, or absolute honesty, is a crucial principle in insurance[8]. This principle serves as the primary foundation for conducting the insurance business, fostering trust between insurance companies and their customers[18]. Utmost good faith in insurance is the obligation of both parties, the insurance company and the customer, to provide accurate and complete information regarding the insured matter[4]. Insurance regulations require the insurance customer, as the insured or policyholder, to provide all relevant information to the insurance company, including matters that could potentially affect the insured risk[27]. However, many unit-linked insurance customers fail to provide truthful information regarding the terms of the insurance agreement. Another common problem in unit-linked insurance contracts is the insurer's lack of transparency in providing information regarding claims payments submitted by the policyholder. According to the provisions of Insurance Law Number 40 of 2014, claims payments must be made within 30 days of the claim being submitted.

However, in reality, claims are paid beyond the time period stipulated by the Insurance Law[16].An insurance or coverage agreement is a contract with a special and unique nature, making it possess certain characteristics that are very distinctive compared to other types of agreements. In general, an insurance agreement must meet the general requirements of an agreement, and it must also adhere to certain principles. One such principle is the principle of utmost good faith[29]. The same provision is also regulated in Article 281 of the Commercial Code, which requires good faith. If this principle is not present, the return of the premium or restorno cannot be granted. The term good faith, or geode trouw (Dutch) or utmost good faith (English), refers to the good will of each party to perform a legal act so that the legal consequences of that will or legal act can be achieved properly. Good faith is always protected by law, while its absence is not[30]. The principle of Utmost Good Faith is regulated in Article 251 of the Commercial Code, which states: "Any false or untrue statement or concealment of a condition known to the insured, regardless of how honest it may be on his part, that is of such a nature that the agreement would not have been entered into under the same terms if the insurer had known the true condition of the object, shall render the insurance void."[31] The implementation of the principle of good faith, or the principle of utmost good faith, is often

not implemented in unit-linked life and health insurance contracts. This problem occurs in claims payments. The concept of the utmost good faith principle is intended to disclose all facts about the insured object, whether requested or not, completely and accurately. Article 1338 of the Civil Code also states that every agreement must be executed in good faith[32]. The provisions of Insurance Law Number 40 of 2014 stipulate that claims must be paid within 30 days of the claim being submitted, but this requirement is often not met by insurers, and even defaults occur in unit-linked insurance contracts. Dishonesty in fulfilling the obligations under this insurance contract will result in losses for the insured or policyholder.

IV. CONCLUSION

This study highlights the importance of understanding the healthcare insurance contracts are highly dependent on the principle of utmost good faith, which requires the insured to disclose all material information to the insurer. In Indonesia, policy cancellations due to violations of this principle are often unilaterally conducted by insurance companies without a refund of the premium, even though the contract has not yet been fully implemented. This creates an imbalance in legal protection for the insured and is not yet clearly regulated in national legislation. This study aims to analyze the legal consequences of insurance contract cancellations due to violations of utmost good faith, using normative juridical research methods and a comparative approach to the legal systems of the other countries.The results show that these countries have more proportionally regulated the legal consequences of violations of this principle, with classifications of violations and premium refund mechanisms. In contrast, Indonesian law still allows the insurer to dominate the insured. In conclusion, regulatory reform in Indonesia is needed to ensure contractual fairness and consumer protection in the insurance industry.

V. ACKNOWLEDGMENTS

The researcher teams would like to express the deepest gratitude to the academic lecturer of the Health Insurance course, for their invaluable guidance and support throughout this research. The appreciation goes to our colleagues and peers, whose stimulating discussions and collaborative spirit, have enriched the research team process. Their diverse perspectives and knowledge, have been invaluable assets in navigating the complexities of this research.

REFERENCES

[1] G. Chambashi *et al.*, “Computation of Reinsurance Premiums by Incorporating a Composite Lognormal Model in a Risk-Adjusted Premium Principle,” ***Journal of Mathematical Finance***, vol. 13, no. 01, pp. 1–16, 2023.

[2] S. D’Amico, V. Kurakula, and S. I. Sordo Palacios, “A risk-premium adjustment to the policy rate,” *Chicago Fed Letter*, 2020, doi: 10.21033/cfl-2020-432.

[3] T. Beck, “Economic, Demographic, and Institutional Determinants of Life Insurance Consumption across Countries,” *World Bank Econ Rev*, vol. 17, no. >1, pp. 51–88, Jun. 2003, doi: 10.1093/wber/lhg011.

[4] A. A. Withagen-Koster, R. C. van Kleef, and F. Eijkenaar, “High-risk pooling for mitigating risk selection incentives in health insurance markets with sophisticated risk equalization: an application based on health survey information,” *BMC Health Serv Res*, vol. 24, no. 1, p. 273, Mar. 2024, doi: 10.1186/s12913-024-10774-x.

[5] A. Basirah Mulya, N. Liska Suspenny, C. Wayamah, and E. Puspitaloka Mahadewi, “Development of BPJS from Participation, Government Policy, and Technological Aspects After Pandemic,” ***International Journal of Health and Pharmaceutical (IJHP)***, vol. 5, no. 1, pp. 1–9, Feb. 2025, doi: 10.51601/ijhp.v5i1.391.

[6] E. P. Mahadewi, “Investment Risk Management Strategies in Sukuk: A Sharia Management Perspective,” *Kontigensi :* ***Jurnal Ilmiah Manajemen***, vol. 12, no. 2, pp. 598–608, Dec. 2024, doi: 10.56457/jimk.v12i2.609.

[7] E. F. Ramadhan, Syafri, and Nurhayati, “PENGARUH KEPERCAYAAN DAN KEPUASAN PELANGGAN TERHADAP KUALITAS LAYANAN ASURANSI KESEHATAN,” ***Jurnal Ekonomi Trisakti***, vol. 3, no. 2, pp. 3005–3014, Aug. 2023, doi: 10.25105/jet.v3i2.17114.

[8] N. Ashri Maunah, B. Sunargo, and E. Puspitaloka Mahadewi, “Application Of The Utmost Good Faith Principle In Life Insurance Business Management In Indonesia,” ***International Journal of Science, Technology & Management,*** vol. 4, no. 4, 2023, doi: 10.46729/ijstm.v4i4.844.

[9] Erlina Puspitaloka Mahadewi, Ade Heryana, Fori Yumita, Mulyo Wiharto, and Lia Amalia, "Framing Improvement of Emergency Services RSKJ Soeprapto Hospital with Lean and WAM Modification," ***International Journal of Science,Technology & Management***,vol. 2, no. 3, 2021, doi: 10.46729/ijstm.v2i3.220.

[10] J. Boone, "Basic versus Supplementary Health Insurance: Moral Hazard and Adverse Selection," *SSRN* ***Electronic Journal***, 2014, doi: 10.2139/ssrn.2505955.

[11] P. Bajari, H. Hong, A. Khwaja, and C. Marsh, "Moral Hazard, Adverse Selection and Health Expenditures: A Semiparametric Analysis**,"** ***SSRN Electronic Journal***, 2012, doi: 10.2139/ssrn.2211792.

[12] C. T. Robertson, A. Yuan, W. Zhang, and K. Joiner, "Distinguishing moral hazard from access for high-cost healthcare under insurance," *PLoS One*,vol.15,no.4,p. e0231768, Apr. 2020, doi: 10.1371/journal.pone.0231768.

[13] E. P. , Mahadewi, *METODE RISET BISNIS (Business Research Methods)*. PT. Literasi Nusantara Abadi Grup.

[14] A. Jenis, D. Penelitian, and J. Penelitian, "BAB III METODE PENELITIAN A. Jenis dan Desain Penelitian 1. Jenis Penelitian," pp. 52–77, 2007.

[15] R. Handayani, N. Nurmiati, S. Susanti, and E. Puspitaloka Mahadewi, "The Impact Of Economic And Social Factors On Demand For Health Insurance: Case Study Of Metropolitan Cities," ***International Journal of Health and Pharmaceutical (IJHP),*** vol. 5, no. 1, pp. 112–122, Feb. 2025, doi: 10.51601/ijhp.v5i1.393.

[16] T. Trinarsih, I. Widia Hadi, A. Farkhanah, and E. Puspitaloka Mahadewi, "Health Insurance Demand Dynamics: Factors Influencing Individual And Family Decisions In Purchasing Insurance," ***International Journal of Health and Pharmaceutical (IJHP)***, vol. 5, no. 1, pp. 123–131, Feb. 2025, doi: 10.51601/ijhp.v5i1.390.

[17] M. Hoy, A. Mirza, and A. Sadanand, "Guaranteed renewable life insurance under demand uncertainty," ***Journal of Risk and Insurance,*** vol. 88, no. 1, pp. 131–159, Mar. 2021, doi: 10.1111/jori.12320.

[18] A. Agustina, P. Paramita Putri, E. Kusumastuti Setianingrum, and E. Puspitaloka Mahadewi, "Economy Risk Classification And Legal Principles In Insurance Coverage For Modern Insurance Practice In Indonesia," ***International Journal of Health and Pharmaceutical (IJHP),*** vol. 5, no. 2, pp. 239–244, May 2025.

[19] A. Banerjee, A. Finkelstein, R. Hanna, B. A. Olken, A. Ornaghi, and S. Sumarto, "The Challenges of Universal Health Insurance in Developing Countries: Experimental Evidence from Indonesia's National Health Insurance," *American Economic Review*, vol. 111, no. 9, pp. 3035–3063, Sep. 2021, doi: 10.1257/aer.20200523.

[20] Z. Li, Y. Chen, and J. Ding, "Impact of health insurance equity on poverty vulnerability: evidence from urban–rural health insurance integration in rural China," *Front Public Health*, vol. 11, Nov. 2023.

[21] S. Ghimire, S. Ghimire, P. Khanal, R. A. Sagtani, and S. Paudel, "Factors affecting health insurance utilization among insured population: evidence from health insurance program of Bhaktapur district of Nepal," *BMC Health Serv Res*, vol. 23, no. 1, p. 159, Feb. 2023, doi: 10.1186/s12913-023-09145-9.

[22] S. Kohl and M. Römer, "Insurance demand: a historical long-run perspective (1850–2020)," *Geneva Pap Risk Insur Issues Pract*, vol. 50, no. 3, pp. 595–618, Jul. 2025, doi: 10.1057/s41288-024-00339-8.

[23] T. Philippi and J. Schiller, "Abandoning disaster relief and stimulating insurance demand through premium subsidies," ***Journal of Risk and Insurance***, vol. 91, no. 2, pp. 339–382, Jun. 2024, doi: 10.1111/jori.12467.

[24] C. Mavroutsikos, K. Giannakas, and C. Walters, "The role of premium subsidies in crop insurance," *PLoS One*, vol. 16, no. 4, p. e0250129, Apr. 2021, doi: 10.1371/journal.pone.0250129.

[25] V. Maylia Ardini and E. Puspitaloka Mahadewi, "The Development of Health Insurance and Services in Indonesia," ***International Journal of Health and Pharmaceutical (IJHP)***, vol. 2, no.3, pp. 440–446, May 2022.

[26] O. Darmouni and D. Zeltzer, "Horizon effects and adverse selection in health insurance markets," ***Canadian Journal of Economics/Revue canadienne d'économique***,vol.55,no. 2, pp. 800–827, May 2022.

[27] D. Finger, H. Albrecher, and L. Wilhelmy, "On the cost of risk misspecification in insurance pricing," ***Japanese Journal of Statistics and Data Science,*** vol.7,no.2, pp.1111–1153, Nov.2024, doi:10.1007/s42081-024-00256-z.

[28] J. Yu and E. D. Perry, "Premium subsidies and selection in the federal crop insurance program," ***J Agric Econ,*** vol. 75, no. 1, pp. 280–297, Feb. 2024, doi: 10.1111/1477-9552.12555.

[29] V. Maylia Ardini and E. Puspitaloka Mahadewi, "The Development of Health Insurance and Services in Indonesia," ***International Journal of Health and Pharmaceutical (IJHP),*** vol.2, no. 3, pp. 440–446, May 2022.

[30] D. Powell and D. Goldman, "Disentangling moral hazard and adverse selection in private health insurance," *J Econom*, vol. 222, no. 1, pp. 141–160, May 2021, doi: 10.1016/j.jeconom.2020.07.030.

[31] A. D. Laksono, R. D. Wulandari, and R. Matahari, "The determinant of health insurance ownership among pregnant women in Indonesia," *BMC Public Health*, vol. 21, no. 1, p. 1538, Dec. 2021.

[32] A. Sopian and E. Puspitaloka Mahadewi, "Indonesia Insurance Development with Various Aspects and Prespectives of The Regulatory Approach," ***International Journal of Science, Technology & Management***, vol. 4, no. 5, 2023, doi: 10.46729/ijstm.v4i5.921.